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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Ronald J. Vidal

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FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
MINNEAPOLIS, MN 55402

EXAMINER

ART UNIT

PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/988,821	Applicant(s) VIDAL ET AL.	
	Examiner M. Safavi	Art Unit 3673	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 27 March 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☐ Other (including any explanation in support of the above items):

Art Unit: 3673

NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR 41.37(c)

The brief does not contain arguments of the appellant with respect to each ground of rejection presented for review, and the basis therefor, with citations of the statutes, regulations, authorities, and parts of the record relied on as required by 37 CFR 41.37(c)(1)(vii).

Each ground of rejection must be treated under a separate heading. For each ground of rejection applying to two or more claims, the claims may be argued separately or as a group. Any claim argued separately should be placed *under a subheading* identifying the claim by number. Claims argued as a group *should be placed under a subheading identifying the claims by number*.

The brief on appeal should set forth arguments only under headings corresponding to the rejections being argued, (i.e., the separate headings for each ground of rejection being argued shall unambiguously set forth the ground of rejection being argued). Any arguments presented against a rejection of a claim or a group of claims shall be presented as a subheading under the appropriate heading for the respective ground of rejection. With regard to the brief on appeal filed March 27, 2006, it is not clear as to what is being argued under the heading listed as Roman numeral I since no heading directed to a particular rejection has been presented. The brief on appeal recites "THE EXAMINER HAS FAILED TO ADDRESS EACH AND EVERY ELEMENT OF CLAIMS 1 –34" without referencing any particular rejection. It has been noted that the final Office action of August 29, 2005 sets forth two distinct rejections.

The brief shall set forth which rejection is being argued with regard to separately argued claims. As with the heading listed as Roman numeral I, it is not clear as to what is being argued under the heading listed as Roman numeral II since no heading directed to a particular rejection has been presented. Are the subheadings respectively listed as A, B, C and D arguing a rejection as a whole? Are the subheadings respectively listed as A, B, C and D arguing the rejection of a specific claim? A single heading shall be presented for each ground of rejection with subheadings, (identifying a particular claim or claims), listed under the appropriate ground of rejection heading. And, each ground of rejection must be listed under a separate heading.

Further, it is not understood why two sets of Appendix of Claims have been presented with the Brief filed March 27, 2006. Only one Claims Appendix under 37 CFR 41.37(viii) need be presented with the filing of a brief on appeal.

Appellant is required to comply with provisions of 37 CFR 41.37(c). To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 41.37(c) within ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication. Extensions of time may be granted under 37 CFR 1.136.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354

M. Safavi
May 30, 2006